

AMENDED IN SENATE MAY 18, 2010

AMENDED IN SENATE APRIL 5, 2010

**SENATE BILL**

**No. 1031**

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**Introduced by Senator Corbett**

February 12, 2010

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An act to add Article 17.1 (commencing with Section 2399) to Chapter 5 of Division 2 of, and to repeal Section 2399.7 of, the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

SB 1031, as amended, Corbett. Medical malpractice insurance: volunteer physicians and surgeons.

Under existing law, the Medical Practice Act, the Medical Board of California is responsible for the certification and regulation of physicians and surgeons. Existing law requires the board, in conjunction with the Health Professions Education Foundation, to study the issue of providing medical malpractice insurance to volunteer physicians and surgeons and to report its findings to the Legislature by January 1, 2008.

The bill would create the Volunteer Insured Physicians Program, administered by the board, to provide specified medical malpractice insurance coverage to volunteer physicians providing uncompensated care to ~~low-income~~ patients pursuant to a contract with a qualified health care entity, as defined. The bill would provide unspecified funding for the program from the Contingent Fund of the Medical Board of California for a limited period of time. The bill would require annual reports to the Legislature until January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Article 17.1 (commencing with Section 2399) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 17.1. Volunteer Insured Physicians Program

2399. This article shall be known and may be cited as the Volunteer Insured Physicians (VIP) Act, which authorizes the creation and implementation of the Volunteer Insured Physicians (VIP) Program *within the Medical Board of California*.

2399.1. (a) For purposes of this article, the following definitions shall apply:

(1) "Licensee" means the holder of a *current* physician and surgeon's ~~certificate who is engaged in the professional practice authorized by the certificate under the jurisdiction of the board.~~

(2) ~~"Volunteer physician" means a licensee under this chapter who volunteers to provide primary care medical services, as described in Section 2399.3, to a low-income patient, with no monetary or material compensation.~~

(3) ~~"Qualified health care entity" means a county health department, hospital district, or hospital or clinic owned and operated by a governmental entity.~~

(4) ~~"Low-income patient" means a person who is without health care coverage and whose family income does not exceed 200 percent of the federal poverty level, as defined annually by the federal Office of Management and Budget.~~ *certificate.*

(2) "Patient" means a person who is eligible for free or discounted services at a qualified health care entity.

(3) "Qualified health care entity" means a community clinic as defined in subdivision (a) of Section 1204 of, or subdivision (c) of Section 1206 of, the Health and Safety Code, a county health department, or a hospital district, hospital, or a clinic owned and operated by a governmental entity that provides primary care to low-income patients.

~~(5)~~

(4) "Voluntary service agreement" means an agreement executed pursuant to this article between the board, a licensee, and a

1 qualified health care entity that authorizes the health care entity  
2 to enter into a voluntary service contract with the licensee.

3 ~~(6)~~

4 (5) “Voluntary service application” means the written  
5 application developed by the board that a licensee must complete  
6 and submit in order to be considered for participation in the VIP  
7 Program.

8 ~~(7)~~

9 (6) “Voluntary service contract” means an agreement executed  
10 pursuant to this article between a licensee and a qualified health  
11 care entity that authorizes the licensee to deliver health care  
12 services to ~~low-income~~ patients as an agent of the qualified health  
13 care entity on a ~~volunteer~~ voluntary, uncompensated basis.

14 (7) “*Volunteer physician*” means a licensee under this chapter  
15 who provides primary care medical services in California without  
16 receiving monetary or material compensation and who is  
17 participating in the VIP Program.

18 2399.2. (a) A licensee who wants to provide voluntary,  
19 uncompensated care to ~~low-income~~ patients, but who does not  
20 have medical professional liability insurance that ~~would include~~  
21 provides insurance coverage for premiums, defense, and indemnity  
22 costs for any claims arising from voluntary and uncompensated  
23 care, may submit a voluntary service application to the board for  
24 coverage under the VIP Program.

25 ~~(b) A licensee who submits an application for a waiver of initial~~  
26 ~~and renewal licensing fees under Section 2083 or 2442 and who~~  
27 ~~also submits a voluntary service application shall be simultaneously~~  
28 ~~assessed by the board for eligibility to receive medical professional~~  
29 ~~liability insurance coverage for premiums, defense, and indemnity~~  
30 ~~costs through the VIP Program.~~

31 (b) *When the board receives an application for voluntary license*  
32 *status under Section 2083 or 2442, the board shall assess whether*  
33 *the applicant qualifies for coverage under the VIP Program and*  
34 *notify the applicant of its finding.*

35 (c) A licensee who has standard medical professional liability  
36 insurance coverage for his or her regular practice but who is not  
37 covered for volunteer service may submit a voluntary service  
38 application to participate in the VIP Program. In conjunction with  
39 the voluntary service application, the licensee shall submit  
40 verification from his or her medical professional liability insurance

1 carrier that voluntary, uncompensated care is not covered by his  
2 or her existing medical professional liability insurance policy.

3 (d) The board shall review the voluntary service application to  
4 determine if the applicant meets the criteria for VIP Program  
5 participation. These criteria shall include both of the following:

6 (1) Holding an active license in good standing to practice  
7 medicine in the State of California.

8 (2) No record of disciplinary action by the board or any other  
9 regulatory board.

10 (e) ~~Continued eligibility~~ *Eligibility* for the VIP Program shall  
11 be reassessed by the board during each license renewal cycle.

12 2399.3. (a) Licensees approved by the board for participation  
13 in the VIP Program may enter into a voluntary service agreement  
14 with the board and a qualified health care entity that acknowledges  
15 the terms of the VIP Program and transfers responsibility from the  
16 volunteer physician to the state for medical professional liability  
17 insurance, including premiums, defense, and indemnity costs, for  
18 voluntary, uncompensated medical care that is provided in  
19 accordance with an executed and signed voluntary service contract  
20 between the volunteer physician and the qualified health care entity  
21 and that complies with the terms of the VIP Program.

22 (b) Volunteer physicians participating in the VIP Program shall  
23 agree to limit the scope of the volunteer medical care to primary  
24 care medical services.

25 (c) The voluntary service contract between the volunteer  
26 physician and the qualified health care entity shall include all of  
27 the following provisions:

28 (1) All care provided shall be both voluntary and uncompensated  
29 ~~and shall be provided to low-income patients.~~

30 (2) Patient selection and initial referral shall be made solely by  
31 the qualified health care entity and the volunteer physician shall  
32 accept all referred patients except as otherwise allowed by law.  
33 However, the number of patients that must be accepted may be  
34 limited by the voluntary service contract and patients may not be  
35 transferred to the volunteer physician ~~based on a~~ *in* violation of  
36 any antidumping provisions of the Omnibus Budget Reconciliation  
37 Act of 1989 (P.L. 101-239) or the Omnibus Budget Reconciliation  
38 Act of 1990 (P.L. 101-508).

1 (3) The qualified health care entity shall have access to the  
2 patient records of the volunteer physician delivering services under  
3 the voluntary service contract.

4 (4) The volunteer physician shall be subject to supervision by  
5 the qualified health care entity's standard peer review process and  
6 all related laws regarding peer review, including, but not limited  
7 to, the filing of reports pursuant to Section 805.

8 (5) ~~The~~ *If the qualified health care entity has no peer review*  
9 *process, the* qualified health care entity shall utilize a quality  
10 assurance program to monitor services delivered by the volunteer  
11 physician under the voluntary ~~services~~ service contract.

12 (6) The right to dismiss or terminate a volunteer physician  
13 delivering services under the voluntary service contract shall be  
14 retained by the qualified health care entity. If the ~~volunteer services~~  
15 *voluntary service* contract is terminated, the qualified health care  
16 entity shall notify the VIP Program in writing within five days.

17 2399.4. The fact that a volunteer physician is insured under  
18 the VIP Program in relation to particular medical services rendered  
19 shall not operate to change or affect the laws applicable to any  
20 claims arising from or related to those medical services. All laws  
21 applicable to a claim remain the same regardless of whether a  
22 licensee is insured through the VIP Program.

23 2399.5. If a volunteer physician covered by the VIP Program  
24 receives notice or otherwise obtains knowledge that a claim of  
25 professional medical negligence has been or may be filed, the  
26 *volunteer* physician shall immediately notify the VIP Program or  
27 the contracted liability carrier.

28 2399.6. All costs for administering the VIP Program, including  
29 the cost of medical professional liability insurance for premiums,  
30 defense, and indemnity coverage for program participants, shall  
31 be paid for from the Contingent Fund of the Medical Board of  
32 California, in an amount not to exceed \_\_\_\_ dollars (\$\_\_\_\_) per  
33 year.

34 2399.7. (a) The board shall report annually to the Legislature  
35 summarizing the efficacy of access and ~~treatment~~ outcomes with  
36 respect to providing health care services for ~~low-income~~ patients  
37 pursuant to this article. The report shall include the numbers of  
38 injuries and deaths reported, claims statistics for all care rendered  
39 under the VIP Program, including the total of all premiums paid,  
40 the number of claims made for each year of the VIP Program, the

1 amount of all indemnity payments made, the cost of defense  
2 provided, and administration costs associated with all claims made  
3 against volunteer physicians arising from voluntary and  
4 uncompensated care provided under the VIP Program.

5 (b) (1) A report to be submitted pursuant to subdivision (a)  
6 shall be submitted in compliance with Section 9795 of the  
7 Government Code.

8 (2) Pursuant to Section 10231.5 of the Government Code, this  
9 section is repealed on January 1, 2015.

10 2399.75. *Nothing in this article shall be construed to prevent*  
11 *the board from taking appropriate action against a licensee.*

12 2399.8. This article shall remain operative until January 1,  
13 2016, or until another viable source of funding is identified and  
14 adopted, whichever occurs first.